



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,519	04/06/2001	Andrew W. Lo	1869-003A	6245

9629 7590 05/28/2003
MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

EXAMINER

FELTEN, DANIEL S

ART UNIT PAPER NUMBER

3624

DATE MAILED: 05/28/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. <u>09/828,519</u>	Applicant(s) <u>LO et al</u>
Examiner <u>RELTEN</u>	Art Unit <u>3624</u>

Handwritten signature

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 2/24/2003
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claims 1-14 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) Other:

DETAILED ACTION

1
2 1. Receipt of the amendment filed February 24, 2003 adding claims 2-14 are
3 acknowledged. Claims 1-14 are pending in the application and are presented to be examined
4 based upon their merits.

5
6 *Claim Rejections - 35 USC § 112*

7
8 2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

9 The specification shall conclude with one or more claims particularly pointing out and distinctly claiming
10 the subject matter which the applicant regards as his invention.

11 3. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite
12 for failing to particularly point out and distinctly claim the subject matter which applicant
13 regards as the invention.

14 The applicant has claimed “a system...” which is ambiguous inasmuch as it is
15 uncertain whether the applicant is claiming an apparatus claim or a method. The word,
16 “system” can be defined as, “ a group of devices or artificial objects forming a network”, and
17 “an organized or established procedure”. However, for purposes of examination, claims 1-10
18 will be considered apparatus claims.

19
20
21
22

Election/Restriction

1
2
3
4 4. Claims 1-14 are generic to a plurality of disclosed patentably distinct species
5 comprising

6 Group I Figure 1, as set forth in claims 1-10

7 Group II Figure 2, as set forth in claims 11-14.
8

9 5. The above species are deemed independent inventions from one another. The species
10 are different inasmuch as that one invention discloses an apparatus for particularly processing
11 price data over an interval of time, and the other invention a processing method for predicting
12 a future price movement. Thus the applicant is required under 35 U.S.C. 121 to elect a single
13 disclosed species, even though this requirement is traversed.

14 Should applicant traverse on the ground that the species are not patentably distinct,
15 applicant should submit evidence or identify such evidence now of record showing the species
16 to be obvious variants or clearly admit on the record that this is the case. In either instance, if
17 the examiner finds one of the inventions unpatentable over the prior art, the evidence or
18 admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.
19

20 6. A telephone call was made to James M. Bollinger on May 22, 2003 to request an oral
21 election to the above restriction requirement, but did not result in an election being made.
22 Applicant is advised that the reply to this requirement to be complete must include an election
23 of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

1
2 7. Applicant is reminded that upon the cancellation of claims to a non-elected invention,
3 the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the
4 currently named inventors is no longer an inventor of at least one claim remaining in the
5 application. Any amendment of inventorship must be accompanied by a request under 37 CFR
6 1.48(b) and by the fee required under 37 CFR 1.17(i).

7
8 **Conclusion**

9
10 8. Any inquiry concerning this communication or earlier communications from the examiner
11 should be directed to **Daniel S. Felten** whose telephone number is (703) 305-0724. The
12 examiner can normally be reached between the hours of 7:00AM to 5:30PM Monday-Thursday.
13 Any inquiry of a general nature relating to the status of this application or its proceedings should
14 be directed to the Customer Service Office (703) 306-5631, or the examiner's supervisor
15 **Vincent Millin** whose telephone number is (703) 308-1065.

16
17 9. Response to this action should be mailed to:

18
19 Commissioner of Patents and Trademarks
20 Washington, D.C. 20231

21
22 for formal communications intended for entry, or (703) 305-0040, for informal or draft
23 communications, please label "Proposed" or "Draft".

24 Communications via Internet e-mail regarding this application, other than those under 35

1 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be
2 addressed to *[daniel.felten@uspto.gov]*.

3 All Internet e-mail communications will be made of record in the application file. PTO
4 employees do not engage in Internet communications where there exists a possibility that
5 sensitive information could be identified or exchanged unless the record includes a properly
6
7 signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly
8 set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and
9 Trademark on February 25, 1997 at 1 195 OG 89.

10

11

12

13

14



DSF
May 22, 2003



VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600